

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 831 - SB 1116

March 5, 2017

SUMMARY OF BILL: Decriminalizes possession of marijuana up to one ounce.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures – \$793,300/Incarceration*

Decrease Local Revenue – \$4,865,000

Decrease Local Expenditures – \$3,502,800/Incarceration

Assumptions:

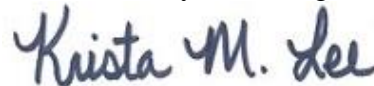
- Under current law, possession of marijuana in an amount between one-half ounce and 10 pounds can be prosecuted as possession with intent, a Class E felony. Possession of marijuana in any amount less than one-half ounce is simple possession, a Class A misdemeanor.
- The proposed legislation decriminalizes possession of marijuana in any amount less than one ounce. The proposed legislation would reduce admissions for possession with intent for admissions involving an amount of marijuana between one-half ounce and one ounce.
- Statistics from the Department of Correction (DOC) show a 10-year average of 267 admissions per year for manufacturing, delivering, selling, or possessing with intent to sell marijuana between one-half ounce and 10 pounds.
- It is assumed that most offenders actually being imprisoned for possession with intent to sell or selling marijuana possessed a substantial amount of marijuana, which likely exceeded one ounce. It is assumed that the proposed legislation will reduce these admissions by 10 percent (267 admissions x 0.1 = 27 admissions).
- Data from the DOC shows the average time served for manufacturing, delivering, selling, or possessing with intent to sell marijuana between one-half ounce and ten pounds is 1.17 years (427.34 days).
- According to the DOC, the average operating cost per offender per day for calendar year 2017 is \$68.75.
- The proposed legislation will result in a recurring decrease in state incarceration costs of \$793,250 (27 admissions x 427.34 days x \$68.75).

- The proposed legislation will reduce convictions for simple possession involving an amount of marijuana less than one-half ounce.
- Statistics from the Administrative Office of the Courts show an average of 1,946 class A misdemeanor convictions per year under Tenn. Code Ann. § 39-17-418 over the last five years. These statistics represent convictions at the state court level. It is assumed that only 10 percent of misdemeanor convictions are at the state court level. It is assumed that there are a total of 19,460 convictions (1,946 x 10) per year for violations of Tenn. Code Ann. § 39-17-418.
- The potential punishment for a class A misdemeanor is up to 11 months, 29 days in jail, a fine up to \$2,500, or both. Rarely will a person convicted serve jail time for simple possession, much less 11 months, 29 days, or pay the maximum \$2,500 fine.
- It is assumed that the average fine for simple possession is currently \$250, which most defendants pay in full. The proposed legislation will result in a recurring decrease of local revenue estimated to be \$4,865,000 (19,460 convictions x \$250).
- Further, it is assumed that only 10 percent (19,460 convictions x 0.1 = 1,946 convictions) serve any jail time, and that the average time served is 30 days. The estimated 2017 cost per inmate per day for local jails is \$60.00.
- The proposed legislation will result in each defendant serving 30 days fewer than under current law. The proposed legislation will result in a recurring decrease of local incarceration costs estimated to be \$3,502,800 (1,946 convictions x \$60 per day x 30 days).
- The proposed legislation will result in 27 fewer felony cases and 19,460 misdemeanor cases each year. The reduction equals approximately one felony case per judicial district and 628 misdemeanor cases per judicial district.
- Though a decrease of almost 20,000 cases could justify a reduction of personnel for the District Attorneys General Conference and the District Public Defenders Conference, it is assumed that, based on the most recent weighted caseload study, that the reduction in caseload does not justify a reduction in personnel.
- The proposed legislation will not reduce the courts', district attorneys', or public defenders' caseloads enough to require a reduction in personnel.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/trm